

§ 11.56

request to reopen a disciplinary proceeding on the basis of newly discovered evidence must demonstrate that the newly discovered evidence could not have been discovered by due diligence.

(i) In the absence of an appeal by the OED Director, failure by the respondent to appeal under the provisions of this section shall result in the initial decision being final and effective thirty days from the date of the initial decision of the hearing officer.

§ 11.56 Decision of the USPTO Director.

(a) The USPTO Director shall decide an appeal from an initial decision of the hearing officer. On appeal from the initial decision, the USPTO Director has authority to conduct a de novo review of the factual record. The USPTO Director may affirm, reverse, or modify the initial decision or remand the matter to the hearing officer for such further proceedings as the USPTO Director may deem appropriate. In making a final decision, the USPTO Director shall review the record or the portions of the record designated by the parties. The USPTO Director shall transmit a copy of the final decision to the OED Director and to the respondent.

(b) A final decision of the USPTO Director may dismiss a disciplinary proceeding, reverse or modify the initial decision, reprimand a practitioner, or may suspend or exclude the practitioner from practice before the Office. A final decision suspending or excluding a practitioner shall require compliance with the provisions of § 11.58. The final decision may also condition the reinstatement of the practitioner upon a showing that the practitioner has taken steps to correct or mitigate the matter forming the basis of the action, or to prevent recurrence of the same or similar conduct.

(c) The respondent or the OED Director may make a single request for reconsideration or modification of the decision by the USPTO Director if filed within twenty days from the date of entry of the decision. No request for reconsideration or modification shall be granted unless the request is based on newly discovered evidence or error of

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law or fact, and the requestor must demonstrate that any newly discovered evidence could not have been discovered any earlier by due diligence. Such a request shall have the effect of staying the effective date of the order of discipline in the final decision. The decision by the USPTO Director is effective on its date of entry.

§ 11.57 Review of final decision of the USPTO Director.

(a) Review of the final decision by the USPTO Director in a disciplinary case may be had, subject to § 11.55(d), by a petition filed in accordance with 35 U.S.C. 32. The Respondent must serve the USPTO Director with the petition. Respondent must serve the petition in accordance with Rule 4 of the Federal Rules of Civil Procedure and § 104.2 of this Title.

(b) Except as provided for in § 11.56(c), an order for discipline in a final decision will not be stayed except on proof of exceptional circumstances.

§ 11.58 Duties of disciplined or resigned practitioner, or practitioner on disability inactive status.

(a) An excluded, suspended or resigned practitioner, or practitioner transferred to disability inactive status shall not engage in any practice of patent, trademark and other non-patent law before the Office. An excluded, suspended or resigned practitioner will not be automatically reinstated at the end of his or her period of exclusion or suspension. An excluded, suspended or resigned practitioner, or practitioner transferred to disability inactive status must comply with the provisions of this section and § 11.60 to be reinstated. Failure to comply with the provisions of this section may constitute both grounds for denying reinstatement or readmission; and cause for further action, including seeking further exclusion, suspension, and for revocation of any pending probation.

(b) Unless otherwise ordered by the USPTO Director, any excluded, suspended or resigned practitioner, or practitioner transferred to disability inactive status shall: